

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

WILLIAM SCOTT SANDUSKY,	:	CIVIL ACTION NO. 1:13-CV-2507
	:	
Plaintiff,	:	(Chief Judge Conner)
	:	
v.	:	
	:	
COUNTY OF ADAMS, PENNSYLVANIA,	:	
<i>et al.</i>,	:	
	:	
Defendants.	:	

ORDER

AND NOW, this 21st day of April, 2014, upon consideration of the report (Doc. 8) of Chief Magistrate Judge Martin C. Carlson, recommending the court grant in part and deny in part the motion (Doc. 3) to dismiss the complaint (Doc. 1) of plaintiff William Scott Sandusky (“Sandusky”) filed by the County of Adams, Pennsylvania (“County”), County Public Defender Kristin Rice, and County Commissioners Randy Phiel, Jim Martin, and Marty Karsteter Qually, wherein Judge Carlson concludes that Sandusky’s claims for age discrimination in violation of the Age Discrimination in Employment Act (“ADEA”), 29 U.S.C. § 621 *et seq.*, and Pennsylvania Human Relations Act (“PHRA”), must be dismissed as to the individual defendants because there is no individual liability under either act, (Doc. 8 at 12-13), but determines that Sandusky has sufficiently stated facts in support of an age discrimination claim against the County, (*id.* at 13-14), and,

after an independent review of the record, and noting that the County filed an objection¹ (Doc. 9) to the report on March 3, 2014, and that Sandusky filed a response (Doc. 11) to the County's objection on March 17, 2014, and the court finding Judge Carlson's analysis to be thorough, well-reasoned, and fully supported by the record, and the court further finding the County's objection to be without merit² and squarely addressed by Judge Carlson's report, it is hereby ORDERED that:

¹ Where objections to a magistrate judge's report and recommendation are filed, the court must perform a *de novo* review of the contested portions of the report. Supinski v. United Parcel Serv., Civ. A. No. 06-0793, 2009 WL 113796, at *3 (M.D. Pa. Jan. 16, 2009) (citing Sample v. Diecks, 885 F.2d 1099, 1106 n. 3 (3d Cir. 1989); 28 U.S.C. § 636(b)(1)(c)). "In this regard, Local Rule of Court 72.3 requires 'written objections which . . . specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for those objections.'" Id. (citing Shields v. Astrue, Civ. A. No. 07-417, 2008 WL 4186951, at *6 (M.D. Pa. Sept. 8, 2008)).

² In its objection, the County contends that the magistrate judge erred by failing to consider certain meeting minutes attached to its reply brief in support of its motion to dismiss. (See Docs. 7-1 to 7-8). The County argues that the meeting minutes make no reference to hiring a younger employee to replace Sandusky and that they consequently disprove Sandusky's age discrimination claim. (See Doc. 10 at 6-9, Doc. 12 at 2-4). The County's position is misplaced in light of the procedural posture of this case. At the Rule 12 stage, the court must assume that a plaintiff's allegations are true and draw all reasonable inferences in his favor. See Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). The County does not contend that Sandusky has not adequately pled a claim for age discrimination; rather, it posits that his allegations cannot be proved. As Judge Carlson concluded, such challenges are most appropriately reserved for resolution at summary judgment or at trial. The court thus overrules the County's objection.

1. The report (Doc. 8) of Chief Magistrate Judge Martin C. Carlson is ADOPTED in its entirety.
2. Defendants' motion (Doc. 3) to dismiss is GRANTED to the extent it seeks dismissal of Sandusky's claims against the individual defendants. The motion is DENIED in all other respects.
3. The claims against Randy Phiel, Jim Martin, Marty Karsteter Qually, and Kristin Rice are DISMISSED with prejudice.
4. A case management order shall issue by separate order.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania